

TTAB



04-01-2002

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #70

**U.S. PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Applicant: The Steinbeck Heritage Foundation
Mark: STEINBECK
Ser. No.: 75/831,218
Title: Notice of Appeal
Filing Date: 10/19/99
Examining Attorney: Jeffrey S. Molinoff
Law Office: 107
Office Action: #3 (dated: 10/01/01)
Ref. No.: 9258/041

6-30-02

Assistant Commissioner for Trademarks
BOX TTAB-FEE
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF APPEAL

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision of the Examiner dated November 1, 2001, finally refusing registration of the above-identified trademark. Applicant has filed a Request for Reconsideration Amendment and Response.

An appeal fee of \$300 is enclosed herewith appealing the refusal to register in International Classes 16, 18 and 41 only. The Commissioner is hereby authorized to charge any additional fees that may be required as well as credit any overpayments, to our deposit account no. 50-1639, in the name of Cowan, DeBaets, Abrahams & Sheppard, LLP.

Respectfully submitted.

COWAN, DEBAETS, ABRAHAMS
& SHEPPARD, LLP

By:

Mitchell E. Radin
Attorneys for Applicant
40 West 57th Street
New York, New York 10019
(212) 974-7474

Dated: April 1, 2002

04/08/2002 KGIBBONS 00000081 75831218

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04-01-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #70

**U.S. PATENT AND TRADEMARK OFFICE
ASSISTANT COMMISSIONER FOR TRADEMARKS**

Applicant: The Steinbeck Heritage Foundation
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Title: Amendment and Response to Office Action
Filing Date: 10/19/99
Examining Attorney: Jeffrey S. Molinoff, Law Office 107
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Ref. No.: 9258/041

Assistant Commissioner for
Trademarks
Box Responses/No Fee
2900 Crystal Drive
Arlington, VA 22202-3513

**REQUEST FOR RECONSIDERATION
AMENDMENT AND RESPONSE**

This Request for Reconsideration is filed in response to the Third Office Action dated October 1, 2001.

I. Identification And Classification

Please delete the present description of goods and services and substitute the following:

"Magnets in International Class 9; Lapel pins, ornamental lapel pins in International Class 14; bookmarks, pencils, paperweights, blank journals, notebooks, calendars, scrapbooks, posters, paper gift labels, postcards in International Class 16; leather shopping bags, mesh shopping bags, textile shopping bags, book bags in International Class 18; mugs in International Class 21; clothing, namely, caps, hats, neckties, jackets, sweaters and shirts in International Class 25; plush toys, bean bags in International Class 28; educational services, namely, providing workshops on the life and works of the author John Steinbeck and distributing course materials in connection therewith, and organizing and conducting a book fair about the author John Steinbeck in International Class 41"

II. Payment of Fees

This application now covers goods and services in eight different classes, and Applicant has previously paid filing fees to cover eight classes. Thus, this requirement has been met.

III. Distinctiveness

A surname is registrable on the Principal Register in an intent-to-use application prior to the filing of an Amendment to Allege Use or Statement of Use provided the Applicant establishes that the mark has acquired distinctiveness on goods or services not specified in the application such that the fame of the other goods or services would be likely to transfer to the goods or services specified in the intent-to use application. In re Rogers, 53 U.S.P.Q.2d 1741, 1744 – 45 (T.T.A.B. 1999); TMEP 1212.09. See also In re Time Warner Entertainment Company, L.P., 2000 TTAB LEXIS 229 *11.

To establish such acquired distinctiveness, first the Applicant must show that the mark has acquired distinctiveness with respect to the other goods or services using the same criteria as specified in 2(f) of the Lanham Act. Id. Second, the Applicant must show that there exists a sufficient relationship between the other goods or services and those specified in the application to warrant the conclusion that the previously created distinctiveness will transfer to the goods or services in the application upon use. As detailed by Applicant in response to previous office actions in connection with this Application, all which are adopted herein, in addition to the clear fame of the name STEINBECK in connection with the literary world and, thus, literary activities, the instant Mark STEINBECK has acquired distinctiveness as a trademark as a result of its national use and exposure through authorized uses by others for related goods and services. In particular, Applicant's licensee, National Steinbeck Center, which also refers to itself as the Steinbeck Center, is located in Salinas, California, and has a website www.Steinbeck.org. The National Steinbeck Center has used STEINBECK, as the predominant aspect of its name, since 1998 for its wide range of activities and services and in the sale of items in its museum gift shop. Materials concerning the National Steinbeck Center and the use of STEINBECK in the context of the Center and its various activities such as the Steinbeck Festival, are enclosed.

Another major use of the term STEINBECK has appeared in STEINBECK CENTENNIAL as a means to designate the activities being offered in connection with the 100th Anniversary of John Steinbeck's birth. Sample pages from the web site, located at www.steinbeck100.org, are enclosed.

Through such widespread uses as noted above and the fame of the Steinbeck name, the mark STEINBECK has acquired distinctiveness under Lanham Act Section 2(f) with respect to the goods and services identified in the description. In addition, an application based on use for JOHN STEINBECK for goods in Classes 16, 24 and 25 has been published for opposition and provides a further basis for establishing sufficient distinctiveness. See generally In re Time Warner at *11.

It also is respectfully submitted that there exists a sufficient relationship to the noted goods and services to warrant the conclusion that the created distinctiveness will carry over to the goods and services in the application. The products and, especially, the

services involving books and writing and merchandise concerning John Steinbeck are closely related to the services and products noted above.

Finally, the name Steinbeck is clearly famous as the author's name. The applicant recognizes that the Examiner has not accepted this situation as a further basis for establishing secondary meaning. However, because the cited goods and services also involve will be associated with the name JOHN STEINBECK or STEINBECK, which is the known identification for JOHN STEINBECK, the mark also would be famous and well-known in and of itself to much of its target audience. It is not merely the fame of the author John Steinbeck, but the fame of the mark as associated with the goods and services of the Applicant that motivates the buying public, and which is a further basis of acquired distinctiveness.

Applicant's position is further bolstered by the registrations which exist for HEMINGWAY, and Applicant respectfully reiterates its request that the Examiner address Applicant's point raised in prior responses about the precedential significance of the registrations for HEMINGWAY. HEMINGWAY clearly is primarily merely a surname and is the last name of the famous author Ernest Hemingway. The Trademark Office database shows, for example, registrations for HEMINGWAY for men's and women's outdoor clothing (SN 73537770) and for licensing others the right to use and/or exploit, the name and likeness of Ernest Hemingway.

Thus, Applicant respectfully request the Examiner to reconsider that the STEINBECK mark is registrable for the identified goods and services.

IV. Supplemental Register

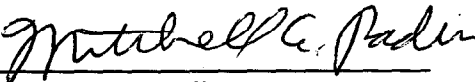
Pursuant to the discussion with the Examiner, Applicant will be filing an Amendment to Allege Use and requesting transfer to the Supplemental Registry for relevant goods and services if the Examiner does not accept the above position for some or all of the goods and services.

V. Conclusion

Applicant respectfully requests that the Examining Attorney withdraw his refusal and pass the application for publication.

Respectfully submitted.

COWAN DEBAETS ABRAHAMS
& SHEPPARD LLP

By: 

Mitchell E. Radin
Attorneys for Applicant
40 West 57th Street
New York, New York 10019
(212) 974-7474

Dated: April 1, 2002

cc: Docketing

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Certificate of Express Mail under 37 CFR 1.10

Applicant: The Steinbeck Heritage Foundation
Ser. No.: 75/831,218
Mark: STEINBECK
Title of Paper: Notice of Appeal, \$300 fee for three classes, Request for Reconsideration

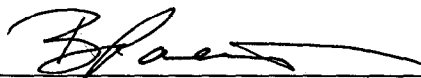
"Express Mail" mailing label number: EL922989949US

Date of Deposit: April 1, 2002

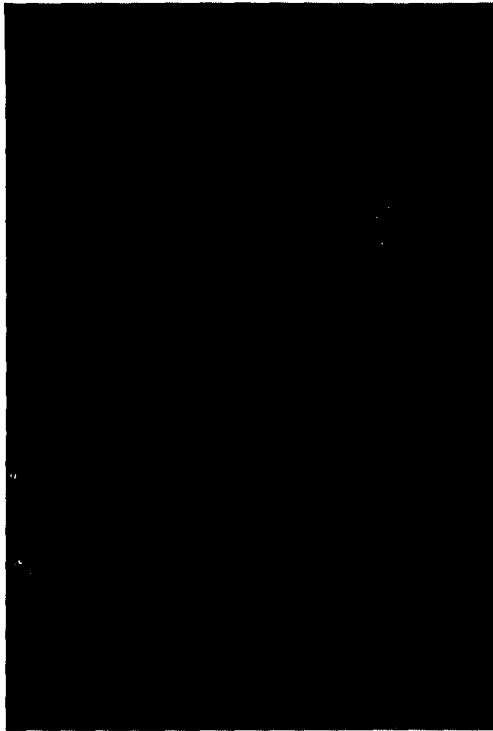
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, Box TTAB/FEE, 2900 Crystal Drive, Arlington, Va. 22202-3513.

Brenda Pares

(Typed or printed name of person mailing paper or fee)



(Signature of person mailing paper or fee)



WELCOME TO THE NATIONAL STEINBECK CENTER IN THE HEART OF STEINBECK COUNTRY

In the tradition of John Steinbeck, the National Steinbeck Center draws its inspiration from the diverse people and the land of the Salinas Valley. Through the exploration of Steinbeck's work and themes, we provide and support educational experiences that inspire audiences to learn about human nature, literature, history, agriculture, and the arts.

Rooted in the earth and the people of the Salinas Valley, author John Steinbeck achieved worldwide recognition for his keen observations and powerful descriptions of the human condition. He championed the forgotten and disenfranchised while affirming the strength of the human spirit. His life was as rich and provocative as the Salinas Valley he immortalized in his writing. Steinbeck drew his inspiration from this land and became known throughout the world, receiving the Nobel Prize for Literature in 1962.

Visit the National Steinbeck Center to experience a journey through John Steinbeck's world, where literature jumps off the printed page and into your imagination. Discover Steinbeck's works and philosophy through interactive, multisensory exhibits for all ages and backgrounds, priceless artifacts, entertaining displays, educational programs and research archives. Seven themed theaters showcase *East of Eden*, *Cannery Row*, *Of*

STEINBECK
CENTER
1902



www.steinbeck100.org
[Steinbeck 100](#)
[Steinbeck Fest](#)
[Calendar of Events](#)
[Hours & Price](#)
[Directions](#)
[Map](#)

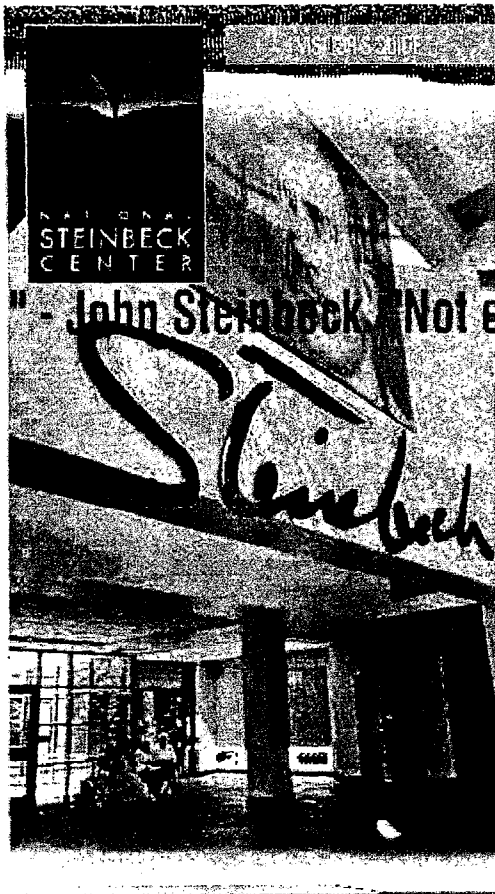
Mice and Men, The Grapes of Wrath and much more. Enjoy ever changing art and cultural exhibits, the Museum Store and One Main Street Cafe. The museum's next addition will be the Valley of the World Agricultural History and Education Center.

The Center is a wonderful attraction for group tours and a unique venue for special events. Funds raised through admissions, memberships, programs, events and donations help support the Center, which is a 501(C)3 non-profit institution.

The National Steinbeck Center is located in historic Oldtown Salinas, a scenic 17-mile drive from Monterey, California on California's Central Coast.

Steinbeck would have turned 100 on February, 27, 2002 Click on "Steinbeck100.org" for more information on year-long Centennial celebration from coast to coast.

The National Steinbeck Center
One Main Street
Salinas, CA 93901
(831)796-3833
(831)796-3828 fax
info@steinbeck.org



VISITOR'S GUIDE

THE NEW NATIONAL STEINBECK CENTER

The new National Steinbeck Center is being built in tribute to a belief John Steinbeck shared with his native city the belief that the arts should be enriching to the community and relevant to everyday life.

IMPORTANT LINKS
 Hours of Operation
 Admission Schedule
 Directions to the Center
 Map

In this spirit, the Steinbeck Center has a mission to be much more than a memorial. Located in Historic Old Town at the head of Main Street in Salinas, the Steinbeck Center is a focal point for activities in education, history and the arts within the city. It comprises a multipurpose facility and entertain local residents, tourists, school children and scholars alike.

WHAT LIES AT THE HEART OF THE STEINBECK CENTER?

- Memorializing John Steinbeck
- Revitalizing downtown and Main Street in Salinas
- Building a living museum for Salinas Valley culture and commerce
- Expanding and giving access to the country's largest collection of Steinbeck Archives
- Offering special education programs and facilities for school children
- Constructing a world class facility for Steinbeck scholarship
- Providing the first major arts exhibition space in Salinas
- Creating a dynamic community center for both daytime and evening family events
- Attracting visitors from the millions of Monterey County tourists

Year round, active programs take place under the Center's roof. Through archive displays, art and history exhibitions, lectures, repertory film series, and special programs for schools, the Center draws people into explore the rich history of the Salinas Valley and Steinbeck Country.

The Steinbeck Center presents the life of Steinbeck, his writings, his characters, and Steinbeck Country in an informative, educational and entertaining manner. Different nationalities play an important role in the Steinbeck Center because the author himself saw the Mexican, Chinese, Italian, Portuguese and other ethnic groups as dignified people and important contributors to the community (*East of Eden*, *Tortilla Flat*, *Forgotten Village*, *Cannery Row*, etc.). Utilizing diorama, innovative exhibits, changing displays and other media, the wonder and beauty of Steinbeck's creativity is dramatized so that everyone can enjoy and appreciate the author, his works and his environment. This will be literature and culture come alive. You can even see the original truck, Rocinante, that John Steinbeck drove

while writing *Travels with Charley*.

Equally as important as drawing people into the Center, the Center reaches out to the community--to inform and entertain, to invite visitors from around the world, to spill out into revitalized Main Street with a garden area, musical and theatrical performances, tours, festivals, and special events.

MAIN EXHIBITION HALL

To display the city's extensive and valuable collection of Steinbeck materials as well as regular program of visiting art exhibitions, loaned materials, and community projects.

EDUCATION CENTER

To accommodate visitors ranging from grade school students to Steinbeck scholars; including conference rooms and individual study areas, video and recording facilities, a research library, and a special collection of Steinbeck literature and related works open to the public.

ARCHIVES AND PRESERVATION WORKSPACE

To meet the critical needs for cataloguing, preserving and expanding the Steinbeck collection now housed in the new archive space in the Center's basement.

Official Web Site of the

National Steinbeck Center Museum Store

[John Steinbeck Books](#)
[Related Books](#)
[Merchandise](#)
[Movies](#)
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STEINBECK
CENTENNIAL
1902-2002



www.steinbeck100.org

The National Steinbeck Center Museum is a multimedia experience of literature, history and the arts located in Salinas, California. In the tradition of John Steinbeck, the National Steinbeck Center draws its inspiration from the diverse people and the land of the Salinas Valley. Creating educational experiences that inspire regional and national audiences to learn about literature, history, agriculture, and the arts.

Located in the heart of OldTown Salinas, California, John Steinbeck's boyhood home.

TO ORDER STEINBECK TITLES PLEASE CLICK ON "JOHN STEINBECK BOOKS"

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National Steinbeck Center Museum Store

Clothing and Related Merchandise



Quote T-Shirts
\$14.95



Mouse Pad
\$10.95



"Never enough
books..." T-
Shirt
\$16.95



Coffee Mug
\$12.95

THE STEINBECK FESTIVAL: "BOOKENDS" FOR THE
JOHN STEINBECK CENTENNIAL AUGUST 2-5, 2001

In recognition of the 100th anniversary of John Steinbeck's birth—and for the first time in the Steinbeck Festival's 20-year history—two festivals will be joined together thematically and complemented with a year's worth of programs. The 21st and 22nd Steinbeck Festivals will serve as "bookends" for the National Steinbeck Center's centennial-related programs, celebrating John Steinbeck's 100th birthday on February 27, 2002.

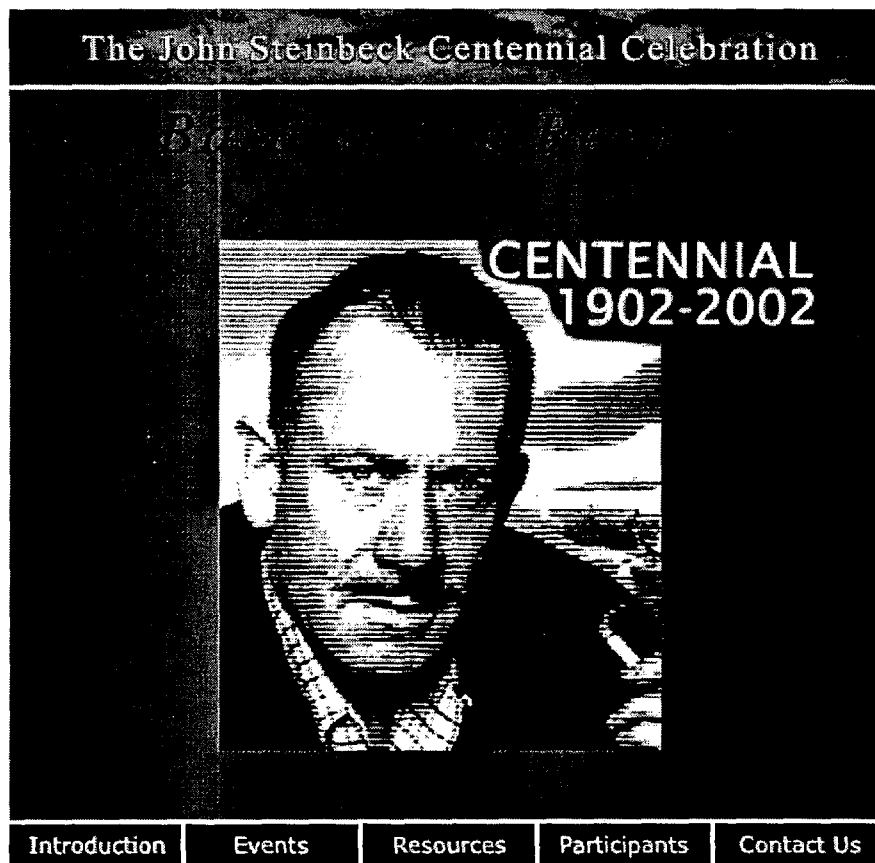
Both festivals will host speakers, panel discussions, feature-length films, bus tours to Steinbeck-related sites, and walking tours, in addition to special events and entertainment. From August 2001 through August 2002, the Center will offer monthly programs examining the life and works of John Steinbeck, from his childhood in California to his lasting legacy in literature, history, marine biology, and other disciplines.

The 21st Steinbeck Festival, "The Birth of America's Author," takes place August 2-5, 2001. Serving as the kick-off event for the Steinbeck centennial, this festival will focus on Steinbeck's early years in California and the formative experiences that shaped him into a world-renowned and controversial writer. An original adaptation of *Tortilla Flat* by the Western Stage is just one of the festival highlights.

From September 2001 through July 2002, the National Steinbeck Center, the Center for Steinbeck Studies at San Jose State University, and several other organizations will honor the Steinbeck centennial with monthly lectures, panel discussions, and dramatic readings. Each program will explore a different theme, such as social activism in the 1930s; the influence of Mexico on Steinbeck; personal perspectives of Steinbeck, the man; and multiculturalism.

The 22nd Steinbeck Festival, tentatively titled "Steinbeck's Legacy," is scheduled for August 1-4, 2002. This festival will conclude the National Steinbeck Center's recognition of the Steinbeck centennial by examining the author's contemporary significance. The 22nd Steinbeck Festival will draw upon numerous disciplines in order to provide a broad understanding of the lasting influence of Steinbeck and his writings.

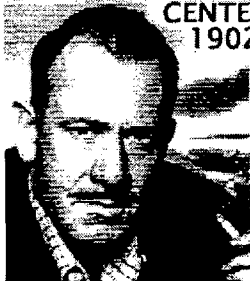
A special Steinbeck Centennial website, www.steinbeck100.org, will also feature events in Monterey County and in other areas of the country.



NATIONAL ENDOWMENT FOR THE
HUMANITIES

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STEINBECK

CENTENNIAL
1902-2002

Bard of the People: The Life and Times of John Steinbeck

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COMPLETE EVENTS CALENDAR

(All events are subject to change.)

New York Events
Events Calendar ■
California Events
Library Grant
Application
Scholarly
Conference CFP

[Click here to see a web
exhibition on John
Steinbeck](#)

For general information about the Centennial Calendar or to add an event to the calendar, call Harold Augenbraum at (212) 755-6710 or Susan Shillinglaw at (408) 924-4487, or send an email with the pertinent information to augenbraum@steinbeck100.org or steinbec@email.sjsu.edu.

Last updated on March 5, 2002.

2001	2002
λ August	λ January
λ October	λ February
λ November	λ March
λ December	λ April
	λ May
	λ June
	λ July
	λ August
	λ September
	λ November
	λ December

Overview

The 100th Anniversary of Steinbeck's birth takes place on February 27, 2002. Many events will take place in 2001, leading up to the Centennial year, which will be celebrated countywide with various cultural organizations in Monterey County. For the National Steinbeck Center, the 21st annual Steinbeck Festival, August 2-5, 2001, will kick off the Centennial "year." It will serve as the first "bookend" to a year long series of programs, ending with the 22nd Annual Steinbeck Festival on August 1-4, 2002.

2001

AUGUST

August 2-5, 2001

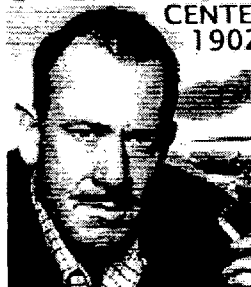
21st Annual Steinbeck Festival

The 2001 and 2002 annual Steinbeck Festival's will serve as "bookends" to the Centennial year. On August 2-5, 2001 the Steinbeck Festival served as a kick off to the festivities. The festival "Birth of America's Author" focused on Steinbeck's early years in Salinas and his formative experiences. There were four days of speakers, panels, film, tours and theater.

National Steinbeck Center, One Main Street, Salinas. 831/775-4721 or
www.steinbeck.org [More Information >>](#)

August 2, 2001

STEINBECK

CENTENNIAL
1902-2002*Bard of the People: The Life and Times of John Steinbeck*[Home](#)[Introduction](#)[Events](#)[Resources](#)[Participants](#)[Contact Us](#)

The Centennial Celebration: An Introduction

HONORARY CHAIRS

Edward Albee | Thomas Guinzburg | Terrence McNally
Bruce Springsteen | Elaine Steinbeck | Thom Steinbeck

Introduction ■

Project Summary

Coordinated by The Mercantile Library of New York, the Center for Steinbeck Studies at San Jose State University, and the National Steinbeck Center, **Bard of the People: The Life and Times of John Steinbeck** will take advantage of the John Steinbeck Centennial to explore the life and work of Nobel Prize-winning writer John Steinbeck (1902-1968), who, as deeply as any twentieth-century American writer, engaged the major social, cultural and political questions of his day.

The Library and the Center for Steinbeck Studies have recruited public, membership and academic libraries as well as other cultural institutions from across the country to mount a national effort to present exhibitions, public programs and publications that will illuminate Steinbeck's work as a socially engaged writer. **Bard of the People: The Life and Times of John Steinbeck** will take advantage of the centenary of Steinbeck's birth on February 27, 2002 to present humanities programs on Steinbeck between September, 2001, and November, 2002, the centennial year. In addition to non-profit libraries and cultural institutions, the Mercantile Library and the Center for Steinbeck Studies are working with Steinbeck scholars, the American Library Association, the Library of America, Penguin Putnam (Steinbeck's publisher), A&E Television, private collectors of Steinbeck material, and antiquarian bookshops to maximize public exposure to Steinbeck's life and work during the centennial year.

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